

1 UNITED STATES DISTRICT COURT

2 EASTERN DISTRICT OF NEW YORK

3 - - - - -
4 MATTHEW RUSSELL, ON BEHALF OF HIMSELF AND ALL OTHERS
5 SIMILARLY SITUATED,

6 Plaintiff,

7 -against-

Civil Action No. 2:17-cv-4274

8 FORSTER & GARBUS, LLP, LVNV FUNDING, LLC, SHERMAN
9 FINANCIAL GROUP, LLC, MARK A. GARBUS, AND RONALD
10 FORSTER,

11 Defendant.

12 - - - - -
13 A Telephone Deposition held at 71 State Street,
14 Binghamton, New York, on the 21st day of February,
15 2019, commencing at 9:04 AM.

16
17 BEFORE: CZERENDA COURT REPORTING, INC.
71 State Street
18 Binghamton, New York 13901-3318
KEVIN CALLAHAN
19 Shorthand Reporter
Notary Public
20 Binghamton - (607) 723-5820
(800) 633-9149
21
22
23

24 WITNESS: MATTHEW RUSSELL

A P P E A R A N C E S

MITCHELL L. PASHKIN, ESQ; 775 Park Avenue, Suite
255, Huntington, New York 11743; Counsel for Plaintiff
(via telephone)

LAW OFFICE OF ROBERT L. ARLEO, ESQ, PC;
380 Lexington Avenue, 17th Floor, New York New York
10168; Counsel for Defendants - Forster & Garbus, Mark
Garbus and Ronald Forster; ROBERT L. ARLEO, ESQ, of
Counsel (via telephone).

S T I P U L A T I O N S

It is stipulated by and between the parties
hereto that the deposition will be held pursuant to the
Civil Rules of Federal Court, Eastern District of New
York; and that the deposition may be signed before any
Notary Public.

Matthew Russell by Mr. Arleo

1 M A T T H E W R U S S E L L, having been called as
2 a witness, being duly sworn, testified as follows:

3 EXAMINATION BY

4 MR. ARLEO:

5 Q. Good morning, Mr. Russell. My name is Robert
6 Arleo. I represent Forster & Garbus, Mark Garbus and
7 Ronald Forster.

8 MR. ARLEO: Okay. Now I'm getting
9 some static on the line.

10 (Whereupon a short break was taken)

11 BY MR. ARLEO:

12 Q. Mr. Russell, my name is Robert Arleo, and
13 I've advised you I represent Forster & Garbus, Mark
14 Garbus and Ronald Forster in a federal lawsuit that's
15 been brought.

16 Have you ever been deposed before?

17 A. No.

18 Q. Are you under any medication which could
19 affect your ability to testify today?

20 A. No.

21 Q. Okay. The process is I'll ask a question.
22 You have to wait until I'm finished. The court
23 reporter that is with you cannot write down what we are
24 saying if we're talking at the same time. So, as you

Matthew Russell by Mr. Arleo

1 see, you are physically in -- I'm sorry.

2 MR. ARLEO: You're in Rochester,
3 Mr. Court Reporter?

4 THE WITNESS: No. We're in
5 Binghamton, New York.

6 MR. ARLEO: Okay.

7 Q. So, you're in Binghamton. I am deposing you
8 by telephone. Your attorney, Mr. Pashkin, is also
9 participating telephonically. So, if you don't
10 understand any of my questions, I'll be happy to
11 rephrase it. Sometimes your attorney might come in
12 with an objection. You have to wait until he's done
13 finishing. So, it's a process, and I'm sure you'll get
14 used to it as we go along.

15 Did you bring any documents with you today?

16 A. No.

17 Q. And who have you spoken to about this
18 deposition?

19 A. My wife and my lawyer.

20 Q. Who's your lawyer?

21 A. Mitchell Pashkin.

22 Q. Can you just give me our education, please.

23 A. High school education.

24 Q. Okay. And anything after high school?

Matthew Russell by Mr. Arleo

1 A. No, sir.

2 Q. Where are you employed, Mr. Russell?

3 A. [REDACTED]

4 Q. And what do you do there?

5 A. I'm the head bartender.

6 Q. I'm sorry. I didn't get the name of the
7 place where you worked at.

8 A. Sure. [REDACTED]

9 Q. And do you have a street address for that,
10 please?

11 A. [REDACTED]

12 Q. Okay. And how long have you been a
13 bartender?

14 A. I'd be guessing the exact amount of years.
15 I'm going to say 30 to 35 years.

16 Q. Okay. Have you ever been fired from any
17 bartending position?

18 A. No, sir.

19 Q. And how long have you been working at
20 Lampy's?

21 A. Since 2010.

22 Q. Who's your supervisor there?

23 A. [REDACTED]

24 Q. Is he the owner or the manager?

Matthew Russell by Mr. Arleo

1 A. General manager.

2 Q. Okay. And how were cash transactions --

3 (Whereupon there was an outside
4 interruption)

5 BY MR. ARLEO:

6 Q. And how are the purchase transactions, how
7 would they occur at the bar?

8 A. I don't understand the question.

9 Q. Okay. You're serving people drinks at the
10 bar. How do the people pay for those drinks?

11 A. By credit card or cash.

12 Q. Mr. Russell, you've been a bartender for
13 30 years. Are you aware of the general knowledge that
14 bartenders sometimes engage in improper activity
15 concerning giving liquor away or other improprieties
16 that go against management?

17 A. Yes.

18 Q. Okay. So, you're aware of that, correct?

19 A. I'm aware of that, yes.

20 Q. And describe what that problem is, please.

21 A. It all boils down to theft.

22 Q. And how is that theft -- how does that occur?

23 A. I don't know.

24 Q. Well, you said you had a general

Matthew Russell by Mr. Arleo

1 understanding as to the bartending profession
2 concerning potential theft. So, I'm asking you to
3 describe what the potential for theft is in conjunction
4 with the bartending profession.

5 A. I don't know because I do not do that.

6 Q. Okay. But that's two answers, you don't know
7 or you don't do that. When you testified that you were
8 aware of the problem, I'm not asking you if you do
9 that. I'm asking you to explain what that problem is.

10 A. Again, what I'm saying is it's an assumption
11 that I do not believe in or do.

12 Q. And what is that? Can you describe what that
13 assumption is.

14 A. That all bartenders are thieves.

15 Q. Well, that was not my question nor my
16 accusation. I'm just saying your general understanding
17 as to issues that may arise in conjunction with the
18 bartending profession, and you stated it revolves
19 around theft, correct?

20 A. That's the assumption.

21 Q. Okay. And what type of theft are we talking
22 about?

23 A. I would assume what -- I think if we're on
24 the same page here, we're saying product and money.

Matthew Russell by Mr. Arleo

1 Q. Okay. Is there a distinction between the
2 two?

3 A. I guess if you look at it no is where if
4 somebody is given drinks without paying, that's money,
5 as well, out of the owner's pocket, or not ringing in
6 the product and taking the money, that's theft, as
7 well.

8 Q. Okay. And you've never done either of those?

9 A. No, sir.

10 Q. Have you ever filed for bankruptcy?

11 A. Yes.

12 Q. And when did you file for bankruptcy?

13 A. Exact date I don't know. I'd be guessing.

14 Q. Was it in the last year?

15 A. No.

16 Q. 2018?

17 A. No.

18 Q. 2017?

19 A. No.

20 Q. Was it more than five years ago?

21 A. Again, I don't know for sure, but I'd be
22 guessing, yes.

23 Q. Okay. How about your best estimate as to
24 when that bankruptcy was filed?

Matthew Russell by Mr. Arleo

1 A. Again, I don't know. I'd be giving you the
2 wrong answer.

3 Q. Do you remember what court the bankruptcy was
4 filed in?

5 A. I don't know.

6 Q. Do you remember the name of your attorney who
7 represented you in that bankruptcy?

8 A. Yes.

9 Q. And what was his or her name, please?

10 A. Peter Orville.

11 Q. And do you know where his office is?

12 A. Again, I -- I'm going to be -- I'm assuming
13 that I know the name of the street. I believe it's
14 Riverside Drive in Johnson City or Binghamton.

15 Q. Johnson City or Binghamton?

16 A. Yes. I'm not sure where the line crosses on
17 Riverside Drive because I know it does cross. At some
18 point it goes from Johnson City to Binghamton.

19 Q. Okay. And is it Peter Orville,
20 O-R-V-I-L-L-E?

21 A. As far as I know, yes.

22 Q. Okay. And were you successful in that
23 bankruptcy?

24 A. I don't know.

Matthew Russell by Mr. Arleo

1 Q. Do you remember going to Bankruptcy Court?

2 A. Yes.

3 Q. And what happened when you went to Bankruptcy
4 Court?

5 A. We went through the process of being at the
6 courtroom. The final -- final result, I'm not -- I
7 don't know what it was.

8 Q. Okay. Did you have debt listed in that
9 bankruptcy?

10 A. I don't know what they are.

11 Q. But did you have debts that were discharged
12 in that bankruptcy?

13 A. Repeat the question.

14 Q. Did you have debts discharged in your
15 bankruptcy?

16 A. I don't know the answer with that.

17 Q. And why did you file for bankruptcy?

18 A. I didn't actually process the whole filing.
19 My wife did.

20 Q. Okay. Was that a joint bankruptcy with your
21 wife?

22 A. I don't know how it was filed.

23 Q. Was your wife part of that bankruptcy?

24 A. I don't know.

Matthew Russell by Mr. Arleo

1 Q. What's your wife's name?

2 A. Jane Russell.

3 Q. How long have you been married to her?

4 A. Twenty-two years.

5 Q. I'm sorry. Mr. Russell, can you give me your
6 home address, please.

7 A. [REDACTED]

8 Q. And your zip code, please.

9 A. [REDACTED].

10 Q. Okay. Back to the bankruptcy, did you have
11 any credit card debt listed in that bankruptcy?

12 A. I don't know what the listings were.

13 Q. Did you sign any bankruptcy papers?

14 A. As a married man, I did what my wife told me
15 to do.

16 Q. Okay. Did you read the bankruptcy papers?

17 A. My wife takes care of that.

18 Q. That's not my question. Did you read the
19 bankruptcy papers before you signed them?

20 A. I recall I probably did, but I don't know.

21 Q. Have you ever been convicted of a crime?

22 A. No.

23 Q. Have you ever been accused of any action
24 which would impugn your honesty and your integrity?

Matthew Russell by Mr. Arleo

1 A. No.

2 Q. Do you owe any back taxes?

3 A. No.

4 Q. Do you have children?

5 A. I'm sorry. Do I have children?

6 Q. Yes.

7 A. Yes.

8 Q. Have you ever been married before your
9 present marriage?

10 A. No.

11 Q. Have you ever been held in contempt of any
12 court?

13 A. No.

14 Q. Have you ever been fired from any place of
15 employment?

16 A. No.

17 Q. Have you ever collected unemployment?

18 A. Yes.

19 Q. Do you recall when?

20 A. Exact date, no. Quite a while ago.

21 Q. I'm sorry?

22 A. I'm sorry, sir. Quite a while ago.

23 Q. Okay. Thanks. Do you own your home or rent?

24 A. Own.

Matthew Russell by Mr. Arleo

1 Q. And how long have you owned your home?

2 A. Again, exact date, I don't know. I'd be
3 guessing.

4 Q. Why don't you take a guess, then.

5 A. Eight years.

6 Q. I'm sorry?

7 A. Eight years.

8 Q. Okay. Have you ever had any bank accounts
9 seized?

10 A. I don't know.

11 Q. Have you ever had any judgments entered
12 against you?

13 A. If I did, I don't know.

14 Q. Okay. Have your wages ever been garnished?

15 A. No.

16 Q. Does your wife work?

17 A. Yes.

18 Q. Where does she work?

19 A. [REDACTED]

20 Q. And what does she do for [REDACTED]

21 A. [REDACTED]

22 Q. I'm going to refer now to this lawsuit which
23 is filed against my client. And what's the basis of
24 your claims against my client in this federal lawsuit?

Matthew Russell by Mr. Arleo

1 A. To describe it, they had not contacted me
2 with information of a sale of my account.

3 Q. Okay. And why did you name Mark Garbus as a
4 defendant?

5 A. Why did I name -- I don't know the exact
6 answer to that.

7 Q. And why did you name Ronald Forster as a
8 defendant?

9 A. I don't have the answer to that.

10 MR. ARLEO: Okay. Court Reporter,
11 could you print out a copy of the complaint
12 that's been filed in this lawsuit, which is
13 United States District Court for the Eastern
14 District of New York. That will give you
15 your caption that you requested before.

16 (Whereupon a discussion was held
17 off the record)

18 BY MR. ARLEO:

19 Q. Mr. Russell, what laws do you allege my
20 client violated?

21 A. The laws -- I don't know the description of
22 that. I can't describe that to you.

23 Q. Okay. What do you want from my client?

24 A. I'd be assuming. Are you asking me if I'm

Matthew Russell by Mr. Arleo

1 asking for money?

2 Q. I'm asking you, what do you want from my
3 client from this lawsuit?

4 A. The resolution of what's going on right now.

5 Q. And how would that be resolved?

6 A. For the sale of my name without telling me
7 about it.

8 Q. So, what do you want from my client based on
9 this lawsuit?

10 A. Do you have what my lawyer has presented to
11 you?

12 Q. I'm not asking what your lawyer presented to
13 me. I'm asking what you want from this lawsuit.

14 A. I don't know.

15 Q. Okay. How many debts have you defaulted
16 upon?

17 A. Don't have that in front of me.

18 Q. Would it be more than one?

19 A. I don't know.

20 Q. Would it be more than five?

21 A. I don't know.

22 Q. Are you current on your mortgage payments?

23 A. As far as I know.

24 Q. Do you make the mortgage payments, or does

Matthew Russell by Mr. Arleo

1 your wife make them?

2 A. My wife does.

3 Q. And who has the mortgage on your home?

4 A. Are you asking me what name is it under?

5 Q. No. I'm asking what lending institution gave
6 you the mortgage on your home.

7 A. I don't know. I don't have that in front of
8 me.

9 Q. Is there a bank that gave you a mortgage?

10 A. Yes.

11 Q. And what bank is that?

12 A. I don't know.

13 Q. And how long have you owned your home for?

14 A. Eight years.

15 Q. How did you apply for that mortgage?

16 A. When I applied, it was applied with my wife.
17 We applied together.

18 Q. Did you sign any mortgage papers?

19 A. I signed what I was told to sign by my wife.

20 Q. And you don't know the bank that has your
21 mortgage?

22 A. I don't have that information in front of me,
23 sir.

24 Q. I'm asking you do you recall who the bank is

Matthew Russell by Mr. Arleo

1 that has your mortgage?

2 A. I don't know right now.

3 Q. Did you ever know?

4 A. I'm assuming I did.

5 Q. Is there a reason why you don't know now?

6 A. I don't want to give you the wrong
7 information.

8 Q. And you've testified that Mr. Pashkin is your
9 attorney in this lawsuit. How did you retain
10 Mr. Pashkin?

11 A. Through my wife.

12 Q. And how did your wife come to learn of
13 Mr. Pashkin?

14 A. I don't know.

15 Q. And what did your wife tell you about
16 Mr. Pashkin?

17 A. Friendly, polite.

18 Q. And did Mr. Pashkin ever represent your wife?

19 A. I'm sorry. Did -- repeat the question.

20 Q. Did Mr. Pashkin ever represent your wife?

21 A. I don't know.

22 Q. Again, how did your wife come to know
23 Mr. Pashkin?

24 A. I don't know originally.

Matthew Russell by Mr. Arleo

1 Q. Have you ever met Mr. Pashkin?

2 A. By phone.

3 Q. Okay. When was the first time you spoke to
4 Mr. Pashkin?

5 A. Again, estimation two months.

6 (Whereupon a discussion was held
7 off the record)

8 (Whereupon Exhibits 1 and 2 were
9 marked for identification)

10 BY MR. ARLEO:

11 Q. Mr. Russell, did he sign a retainer agreement
12 with Mr. Pashkin?

13 A. I did not.

14 Q. And have you paid any money to him to date?

15 A. No.

16 Q. And what is your retainer agreement with
17 Mr. Pashkin?

18 A. I don't know. My wife would know.

19 Q. So, how is Mr. Pashkin being paid for his
20 services rendered to you?

21 A. I don't know.

22 MR. ARLEO: Can you, please, hand
23 him what's been marked as Exhibit 1, please.

24 Q. And, Mr. Russell, can you just take a moment

Matthew Russell by Mr. Arleo

1 to review what's been marked as Defendant's Exhibit 1
2 and let me know when you're finished, please.

3 A. I'm reading through the whole thing?

4 Q. Yes, please.

5 A. Okay.

6 Q. And just let me when you're finished.

7 A. Yes, sir. Okay. Sir.

8 Q. I want to go back before we get into this
9 document. When your wife said that Mr. Pashkin was
10 friendly, how did she come to know Mr. Pashkin?

11 A. Through conversation.

12 Q. And when was that conversation initiated?

13 A. I don't know.

14 Q. Did your wife receive any solicitations from
15 Mr. Pashkin?

16 A. I don't know.

17 Q. And now, you testified that the first time
18 you spoke to Mr. Pashkin was two months ago?

19 A. That was an estimation.

20 Q. And how did that conversation come to effect?

21 A. Through my wife.

22 Q. Explain that, please.

23 A. My wife asked me to speak to Mr. Pashkin.

24 Q. And why did she ask you to speak to him?

Matthew Russell by Mr. Arleo

1 A. Because of the situation at hand.

2 Q. What's the situation at hand?

3 A. I was receiving letter -- I was told I was
4 receiving letters which I wasn't receiving.

5 Q. So, you spoke to Mr. Pashkin about two months
6 ago?

7 A. I've spoken to him more since.

8 Q. Right. But let's say on the first time and
9 you were not receiving letters. Were they letters from
10 Mr. Pashkin?

11 A. No.

12 Q. And who were they letters from?

13 A. The companies that were selling my name.

14 Q. Okay. You received letters from them?

15 A. No.

16 Q. Okay. If you look at this document that's
17 been marked Defendant's Exhibit 1 and look at the top,
18 it says, document 1, filed 7/18 of '17. When was the
19 first time you saw this document?

20 A. Today.

21 Q. So, you've never seen this complaint before?

22 A. Actually in front of me, no.

23 Q. Did you authorize Mr. Pashkin to bring a
24 class action in your name?

Matthew Russell by Mr. Arleo

1 A. Yes.

2 Q. When did you do that?

3 A. I'm trying to give you a date. I would say I
4 don't have a date right now. I don't have a date.

5 Q. Was it before this lawsuit was filed?

6 A. I don't know.

7 Q. Was it in the last month?

8 A. I don't know.

9 Q. Was it in the last two months?

10 A. I don't know.

11 Q. Have you reviewed any of the documents that
12 have been filed in this lawsuit?

13 A. I just did.

14 Q. So, this is the first time? You haven't
15 reviewed any other documents in this lawsuit other than
16 this complaint?

17 A. My wife handles most of that.

18 Q. Did your wife receive any documents from
19 Mr. Pashkin?

20 A. From Mr. Pashkin, I don't know.

21 Q. Did your wife receive this complaint from
22 Mr. Pashkin?

23 A. Yes. I'm sorry. I should say, yes, as far
24 as I know. I -- she didn't say, I've got it, no.

Matthew Russell by Mr. Arleo

1 Q. I'm sorry. I didn't understand your answer.

2 A. She didn't tell me the day she received it.

3 Q. When did she receive it?

4 A. I don't know.

5 Q. And do you know what your responsibility is
6 as a class representative?

7 A. No.

8 Q. Has Mr. Pashkin ever explained those
9 responsibilities to you?

10 A. I don't know.

11 Q. This is a yes or no answer, Mr. Russell. Has
12 he ever explained the responsibilities of class
13 representatives to you, yes or no?

14 A. I don't know right now.

15 Q. Well, when do you think you're going to know?

16 A. I don't know right now.

17 Q. Again, Mr. Russell, has Mr. Pashkin ever
18 explained to you your duties as a class representative?

19 A. I don't know what -- I don't know.

20 Q. Did he explain those duties to you prior to
21 July 18th of 2017?

22 A. I don't know.

23 Q. Mr. Russell, you're under oath.

24 A. Yes.

Matthew Russell by Mr. Arleo

1 Q. You understand that?

2 A. Yes.

3 Q. Okay. And you've been sworn in?

4 A. Yes.

5 Q. Are you willing to pay your pro rata share of
6 costs if his lawsuit is not successful?

7 A. I didn't hear that.

8 Q. Are you willing to pay your pro rata share of
9 costs if his lawsuit is not successful?

10 A. I don't know what that is.

11 Q. Did Mr. Pashkin ever explain to you what that
12 is?

13 A. I believe he explained something -- I believe
14 he explained something like that, but I don't know
15 that's what I'm -- if that's the answer I'm hearing.
16 If that was what he said to me, I don't know.

17 Q. When you say, "he explained something like
18 that," explain what that meant.

19 A. Well, I'm explaining to you that I don't know
20 what you're saying. The pro rata share, what is that?

21 Q. So, you don't know what pro rata shares are?

22 A. Can you ask -- can you repeat the question
23 and tell me what that is.

24 Q. No. I'm asking you for your understanding of

Matthew Russell by Mr. Arleo

1 pro rata share, but we don't have to continue to go
2 around. You don't know what pro rata share of costs
3 is, correct?

4 A. I've never -- I've never heard the word pro
5 rata share to me, yes.

6 Q. Okay. Are you aware that my client is paying
7 money to depose you today?

8 A. I don't know.

9 Q. Okay. Well, I'm letting you know that the
10 cost of the court reporter is going to be incurred in
11 this lawsuit. Are you aware that if you lose this
12 lawsuit, you have to pay the costs incurred by my
13 client and not Mr. Pashkin?

14 A. No.

15 Q. Do you have your cell phone with you?

16 A. I think so.

17 Q. Okay. Is there anyone communicating with
18 you? Has anyone communicated with you during the
19 course of this deposition?

20 A. No.

21 Q. Have you received any text messages from
22 anyone during the course of this deposition?

23 A. No.

24 Q. Is there any other person besides Mr. Pashkin

Matthew Russell by Mr. Arleo

1 who may have a monetary interest in the legal fees in
2 this lawsuit?

3 A. I don't know.

4 Q. Has Mr. Pashkin told you that there's anyone
5 else involved in this lawsuit?

6 A. No.

7 Q. So, you've brought a class action. What
8 persons are you trying to represent?

9 A. Say that again.

10 Q. Do you understand that this lawsuit against
11 my clients you started as a class action lawsuit? Do
12 you understand that?

13 A. Yes.

14 Q. And who is the class you're trying to
15 represent?

16 A. I don't have an answer for that.

17 Q. So, would that mean you don't know who you're
18 trying to represent?

19 A. I don't know what the answer -- I don't have
20 the answer that I think you're looking for.

21 Q. I'm not looking for any answers, Mr. Russell.
22 I'm looking for you to respond to my question.

23 A. I understand.

24 Q. Yes or no, do you know the class that you're

Matthew Russell by Mr. Arleo

1 trying to represent in this lawsuit?

2 A. The class is what? What are you referring to
3 as the class?

4 Q. What's your understanding of the class?

5 A. What is the class?

6 Q. That's what I'm asking you.

7 A. What is -- what is the definition of the
8 class you're looking for? Are you saying a person?

9 Q. I'm asking you in this lawsuit what class are
10 you trying to represent?

11 A. I don't know.

12 Q. Has Mr. Pashkin ever told you the class that
13 you're trying to represent?

14 A. I don't know.

15 Q. And so we're clear, did you authorize
16 Mr. Pashkin to file this lawsuit in July of 2017?

17 A. My wife did.

18 Q. And have you spoken to your wife concerning
19 this lawsuit since July of 2017?

20 A. I've spoken to my wife about speaking to
21 Mr. Pashkin.

22 Q. And how many times have you spoken to her
23 about speaking to Mr. Pashkin?

24 A. Too numerous to count.

Matthew Russell by Mr. Arleo

1 Q. And when was the first time you spoke to her
2 after July of 2017 regarding this lawsuit?

3 A. I'm guessing, again, a week later.

4 Q. I'm sorry. A week later from what?

5 A. July of 2017.

6 Q. A week after July of 2017 you spoke to your
7 wife about this lawsuit?

8 A. Correct. That was a guess.

9 Q. Have you filed any other lawsuits against any
10 other debt collectors?

11 A. No.

12 Q. Have you settled any other lawsuits with any
13 other debt collectors?

14 A. I don't know.

15 Q. Okay. Did you receive any money regarding
16 any settlements with any other debt collector lawsuits?

17 A. I don't know.

18 MR. ARLEO: Okay. Court Reporter,
19 can you show him defendant's Exhibit 2.

20 Q. And, Mr. Russell, if you'd just take a
21 moment --

22 A. Yes.

23 Q. -- and review this and let me know when
24 you're done.

Matthew Russell by Mr. Arleo

1 A. Okay, sir.

2 Q. And when did you receive this lawsuit?

3 A. When did I receive it?

4 Q. Yes.

5 A. I don't understand the question.

6 Q. Have you ever seen this lawsuit before,
7 Defendant's Exhibit 2?

8 A. I believe I have. I don't know, though.

9 Q. You believe you have, but you don't know?

10 A. I believe it was shown to me by my wife.
11 Sorry I interrupted you.

12 Q. No. That's okay. You're doing fine.
13 And was this lawsuit served on your wife?

14 A. Was it served by my wife?

15 Q. No. Was it served -- how did your wife come
16 to get this lawsuit?

17 A. Through Mr. Pashkin.

18 Q. So, Mr. Pashkin sent this lawsuit to your
19 wife?

20 A. I don't know.

21 Q. I believe that's what you just testified to.

22 A. I testified that I believed that she received
23 it from Mr. Pashkin, but I should say I don't know.

24 (Whereupon there was an outside

Matthew Russell by Mr. Arleo

1 interruption)

2 BY MR. ARLEO:

3 Q. Do you see at the top of this document it
4 says, defendant's address --

5 A. Yes.

6 Q. -- [REDACTED] Is
7 that your address?

8 A. Yes.

9 Q. And what did you do in response to this
10 lawsuit?

11 A. Spoke with Mr. Pashkin.

12 Q. Okay. Did you file an answer in this
13 lawsuit?

14 A. I don't know.

15 Q. And do you have an attorney in this lawsuit?

16 A. Other than Mr. Pashkin?

17 Q. Does Mr. Pashkin represent you in this LVNV
18 lawsuit?

19 A. Yes.

20 Q. And what is the status of that lawsuit?

21 A. I don't know.

22 Q. And do you have a retainer agreement with
23 Mr. Pashkin in this lawsuit?

24 A. I don't know.

Matthew Russell by Mr. Arleo

1 Q. Have you ever paid any of the moneys demanded
2 in this lawsuit?

3 A. I don't know.

4 Q. You don't know if you've paid any money?

5 A. I don't -- I don't know.

6 Q. Did you bring this federal lawsuit that's
7 Exhibit 1 in order to get out of paying the money you
8 owe in this lawsuit, which is Exhibit 2?

9 A. No.

10 Q. Would you settle Exhibit 1?

11 A. Would I settle Exhibit 1? Is that the
12 question?

13 Q. Yes.

14 A. I don't know.

15 Q. Would you settle Exhibit 1 individually
16 without the class?

17 A. Would I settle Exhibit 1 without the class?
18 I don't know.

19 Q. Did you ever owe a debt to Credit One Bank
20 NA?

21 A. I don't know.

22 Q. Was that a credit card debt, that Credit One
23 Bank NA?

24 A. Are you asking me or telling me?

Matthew Russell by Mr. Arleo

1 Q. I'm asking was that a credit card?

2 A. I don't know.

3 Q. Do you recall ever using a credit card for
4 Credit One Bank NA?

5 A. I do not.

6 Q. Did you ever receive any collection letters
7 regarding this debt?

8 A. No.

9 Q. Did you ever receive any collection letters
10 from Forster & Garbus regarding this debt?

11 A. I don't know.

12 Q. Did your wife ever receive any collection
13 letters from Forster & Garbus regarding this debt?

14 A. No.

15 Q. Is your wife available for a deposition,
16 Mr. Russell?

17 A. I don't know.

18 MR. ARLEO: I don't have any
19 further questions.

20 MR. PASHKIN: No questions here.

21 (Whereupon the deposition concluded
22 at 10:02 AM)

23 - - - - -

24

STATE OF _____

I have read the foregoing record of testimony taken at the time and place indicated in the heading thereof, and I do hereby acknowledge it to be a true and correct transcript thereof.

Subscribed and sworn to
before me this ____ day
of _____, 20__.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24

I N D E X

EXHIBIT:		PAGE:
1	US District Court complaint document	19
2	Lawsuit document - LVNV Funding v Russell	27

- - - - -

1 STATE OF NEW YORK :

2 COUNTY OF BROOME :

3
4 I, KEVIN CALLAHAN, Shorthand Reporter, do
5 certify that the foregoing is a true and accurate
6 transcript of the proceedings in the matter of
7 Matthew Russell, On Behalf of Himself and All Others
8 Similarly Situated, v Forster & Garbus, LLP, LVNV
9 Funding, LLC, Sherman Financial Group, LLC, Mark A.
10 Garbus, and Ronald Forster, held in Binghamton,
11 New York, on February 21, 2019.

12
13
14 

15 KEVIN CALLAHAN

16 Shorthand Reporter

17 Notary Public

18 CZERENDA COURT REPORTING, INC

19 71 State Street

20 Binghamton, New York 13901-3318

21
22
23
24